

**Amendments to the Drawings:**

Attached please find Applicant's Petition Under 37 CFR § 1.184(a)(2), the prescribed fee under 37 CFR § 1.17(h), and three sets of color replacement drawings for Figures 5 and 6 along with one black and white set.

### **REMARKS/ARGUMENTS**

Applicant has carefully reviewed and considered the Office Action mailed on March 9, 2006, and the references cited therewith.

Claims 35-44 are amended, claims 27-34 are canceled, claims 1-28 are withdrawn from consideration, and claims 45-52 are added; as a result, claims 1-28 and 35-50 are now pending in this application.

Applicant would like to thank the Examiner for taking time to discuss the case by telephone. The Applicant found the interaction to be extremely helpful in understanding the Examiner's position with respect to the various claims presented. Based upon that discussion, Applicant has amended the claims presented and submitted new claims that more clearly articulate the embodiments discussed with the Examiner.

#### **Claims Objections**

Claims 35-38 are objected to because of the following informalities: In regard to claim 35, the citation "having the appearance" does not have antecedent basis. Claims 36-38 are depending on claim 35 are also objected. Appropriate correction is required.

Applicant has deleted the phrase "having the appearance" in independent claim 35. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection to independent claim 35, as amended, as well as those claims that depend therefrom.

#### **Affirmation of Election**

Restriction to one of the following claims was required:

- I. Claims 1-30, drawn to a system for building project, classified in class 710, subclass 305.
- II. Claims 31-34, drawn to apparatus of a computer medium, classified in class 710, subclass 100.

III. Claims 35-44, drawn to apparatus of a multiple unit, classified in class 52, subclass 79.2.

Applicant has elected to prosecute the invention of Group III, claims 35-44. Accordingly, the claims of the non-elected invention(s), claims 1-34, are hereby withdrawn from consideration. However, Applicant reserves the right to later file continuations or divisions having claims directed to the non-elected inventions.

§ 102 Rejection of the Claims

Claims 35-37, 39-41, and 43-44 were rejected under 35 USC §102(b) as being anticipated by Poehler (U.S. Patent No. 6,182,408). Applicant respectfully traverses the rejection as follows.

With respect to the Examiner's argument regarding anticipation of Applicant's above referenced claims, Applicant asserts that the Poehler reference appears to describe that, "[T]he solarium area is provided at substantially the same level as the ground level of the area surrounding the multi-unit building." (Abstract). The reference further appears to describe, "[T]he solarium preferably is made up at least in part by soil that is otherwise unsupported by any construction of the multi-unit building". (Col. 3, lines 15-17). Poehler appears to elaborate further thereon by describing in column 5, lines 32-40:

[I]t is preferable that developing the solarium area 20 would not require any underground construction for the purpose of constraining or otherwise maintaining the soil or other features of the solarium area 20, like in a large planter. Such constraining construction would disadvantageously require the solarium area 20 be prior excavated and re-filled with soil and/or other materials, or that the solarium area 20 be artificially created above ground level.

The reference does not show a multiple unit building having a concrete foundation and a number of units constructed on the concrete foundation bordering at least a portion of an atrium formed on the concrete foundation.

In contrast, Applicant's independent claim 35 recites:

A multiple unit residential building, comprising;  
a concrete foundation;

a number of residential units constructed on the concrete foundation, the number of units bordering at least a portion of an atrium having at least a public portion formed on the concrete foundation, each unit including a semi-public area adjacent to a primary entrance into the unit and adjacent to the atrium; and  
a common area for ingress and egress from outside the building connected to the atrium.

Not only does Poehler not describe “[a]n atrium formed on the concrete foundation”, as recited in independent claim 35, the reference appears to teach away from so forming an atrium. Further, Applicant asserts that the statements by Poehler quoted above, stating the minimalistic nature of the changes that should be made to the ground on which the structure is to be built, certainly would not lead one of ordinary skill in the art to understand that a basement could be created as part of the structure, as claimed in claims 36 and 45. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 102 rejection of independent claim 35, as amended, as well as those claims that depend therefrom.

Independent claim 39 has been amended to include:

a multiple unit residential building, comprising;  
a common entryway leading to an atrium, the atrium bordered by a number of private units in which the residents reside for primary ingress and egress of residents to and from their units, the atrium having a public area formed therein; and  
the number of units each having a semi-public area formed from at least a portion of the atrium and wherein each semi-public area is adjacent to the public area, the number of units each having a front entrance to the unit facing to the atrium.

Applicant asserts that the Poehler reference describes an almost inside out concept with respect to that claimed in claim 39. For example, in Poehler, the primary entrance is on the outside of the building and the area accessible in the solarium is described as a private area for use only by the adjacent resident.

In claim 39, Applicant describes a public area within the atrium and a number of semi-public areas formed within the atrium as well. As one difference,

the Poehler reference does not appear to teach or suggest the concept of semi-public areas.

Further, the Poehler reference does not appear to teach a concept wherein each of the semi-public areas is arranged such that access from the public area to each of the units as accomplished by passing through one of the semi-public areas and through the front entrance of the unit, as discussed in claim 46. Applicant also asserts that the Poehler reference does not teach a multiple unit building having:

each unit including a semi-public unit area proximate to the unit and wherein the atrium includes a public area positioned between each unit and each semi-public area

as recited in claim 43.

The only disclosed configuration in the Poehler reference is that of a private area that is adjacent to the dwelling unit. There appears to be no teaching of a public area positioned between each unit and each semi-public area.

Additionally, Applicant also asserts that the Poehler reference does not teach a multiple unit building having:

a number of levels stacked one above another, each level includes a number of units bordering at least a portion of an atrium, the number of units bordering the atrium having an entrance to the unit facing the atrium, and wherein a number of levels have a floor that acts as an upper boundary for one atrium and a lower boundary for another atrium

as recited in claim 44. The Poehler reference at col. 9, lines 35-42 states:

Furthermore, by providing additional levels to the multi-unit building 10 constructed as shown in FIGS. 1-3, a larger volume solarium space can be provided that may include additional solarium features. For example, balconies, staircases, bridges, and the like could easily be adapted within the solarium space, and in accordance with the above, could provide private as well as common areas within the total solarium area 20.

This statement appears to contemplate extending the solarium upward with the addition of multiple levels. Applicant notes that this interpretation of Poehler is

consistent with the definition of a “solarium” which means “a room built for the purpose of enjoying sunlight, usually with large windows or glass walls, especially a room in a hospital or other health care establishment”. *Encarta® World English Dictionary, North American Edition (2005)*. Applicant respectfully requests reconsideration and withdrawal of the § 102 rejection of independent claim 39, as amended, as well as those claims that depend therefrom.

#### §103 Rejection of the Claims

Claims 38 and 42 were rejected under 35 USC § 103(a) as being unpatentable over Poehler (U.S. Patent No. 6,182,408). Applicant respectfully traverses the rejection as follows.

Claims 38 and 42 depend from independent claims 35 and 39, respectively. Applicant respectfully submits that independent claims 35 and 39, as amended, are in condition for allowance. Although Applicant does not agree that based upon the reading of Poehler, one of ordinary skill in the art would be taught or suggested to create a building wherein “[t]he common area has an elevator therein”, as recited in dependent claim 38, or “[a] number of units are arranged back to back”, as recited in dependent claim 42, the Examiner has not provided a cure for the deficiencies of the Poehler reference with regard to independent claims 35 and 39, as amended.

As such, Applicant respectfully submits that each and every element and limitation of independent claims 35 and 39, as amended, is not taught or suggested by the Poehler reference and ordinary skill in the art, either individually or in combination. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of dependent claims 38 and 42.

#### New Claims

Applicant has provided new independent claim 47 which emphasizes the concept of a building having stacked atriums as claimed previously in dependent claim 44. In claim 47, the Applicant provides:

A multiple unit building, comprising;

a number of levels each having a number of units thereon;  
at least two atriums located on at least two of the levels; and  
a number of units each bordering at least a portion of each of the  
atriums; and  
wherein at least one of the number of levels has a floor that acts as  
an upper boundary for one atrium and a lower boundary for another  
atrium.

Applicant asserts that the newly presented claims do not introduce any new matter into the application and merely claim subject matter already in the application. Applicant respectfully requests consideration and allowance of the newly proposed claims as presented.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and, accordingly reconsideration and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 236-0121 to facilitate prosecution of this matter.

**CERTIFICATE UNDER 37 CFR §1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: **MS AMENDMENT** Commissioner of Patents, P.O. BOX 1450, Alexandria, VA 22313-1450 on this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

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Name

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